



County of Los Angeles

CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

May 24, 2005

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

SACRAMENTO UPDATE

Pursuit of County Position on Legislation

SB 399 (Escutia), as amended on May 2, 2005, would allow a county to assert a lien against a recovery that injured Medi-Cal eligible patients receive from a third party. Current law only permits a county to assert a lien for health care costs incurred in treating patients injured by third parties when the patient receives a monetary award as a result of a judgment. SB 399 would allow a lien for past medical expenses against a settlement or compromise, in addition to a judgment. It would also establish a new court procedure for resolving disputes that may arise between the provider and the patient relating to the amount that would be reimbursed to the provider.

County Counsel indicates that a 2001 appellate court decision, Mares v. Baughman, restricted the use of a lien to judgment recoveries only. Until this decision, counties regularly asserted and collected on liens for monies received by injured patients as a result of a settlement or compromise, as well as a judgment. In a subsequent case, Olszewski v. Scripps Health of 2003, the Court found that a provider that treats a Medi-Cal beneficiary may not recover from that beneficiary an amount exceeding the Medi-Cal payment, by asserting a lien against the beneficiary's entire recovery from a third party. Acknowledging that its decision would permit the third party to escape liability for the full amount of the medical expenses they wrongfully caused, the Court expressly invited the Legislature to remedy this problem. SB 399 responds to that invitation by creating a lien mechanism that allows health care providers to assert liens against a Medi-Cal beneficiary's recovery, but prevents such liens from reaching funds beyond those paid as medical damages.

SB 399 is similar to County supported SB 494 (Escutia) of 2004, which passed the Legislature and was vetoed by the Governor. In his veto message the Governor indicated that he understood that health care providers should be reasonably compensated for services they provide, but was concerned that the bill would result in inflated medical and settlement costs.

According to the Department of Health Services (DHS), the Treasurer and Tax Collector estimated that \$236 million in gross charges were outstanding for the County hospital treatment of patients who were injured by third parties, as of February 1, 2005. DHS recommends that the County support SB 399 because it will allow the County to recoup millions of dollars for medical care received by patients injured by another party, and we concur. Consistent with County policy to support legislation to permit counties to assert and collect on liens for health care costs of patients who receive a monetary award from a lawsuit settlement or compromise, in addition to a judgment, **our Sacramento advocates will support SB 399.**

SB 399 is sponsored by the California Medical Association and the Consumer Attorneys of California, and supported by the California Chapter of the American College of Emergency Physicians. It is opposed by the Association of California Insurance Companies, State Farm Insurance, Personal Insurance Federation of California, Civil Justice Association of California, and the American Insurance Association. SB 399 passed the Senate Judiciary Committee on May 4, 2005 by a vote of 4 to 2, and now awaits consideration on the Senate Floor.

We will continue to keep you advised.

DEJ:GK
MAL:JF:MS:ib

c: Executive Officer, Board of Supervisors
County Counsel
Local 660
All Department Heads
Legislative Strategist
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants